HARPAL SINGH v. GURDIAL SINGH

[O.C.J. (Rose C.J.) August 31, 1961]

[Singapore — Suit No. 1189 of 1959]

Money and Moneylending — Promissory note signed by the parties in Gurmukhi script — Whether note complied with s.5(1) of Moneylenders Ordinance (Cap. 193).

A promissory note which is in the normal printed form does not offend section 5(1) of the Moneylenders Ordinance (Cap. 193) merely because the name of the borrower is written in a language other than English.

ACTION.

K. K. Bezboruah for the plaintiff.

P. Coomaraswamy for the defendant.

Rose C.J.: When this matter came before me I entered judgment for the plaintiff for $4,800 and costs but intimated that I would give reasons later.

The facts of the case presented no difficulty. On the basis that the promissory note (Exhibit P. 1) upon which the action was founded was duly executed, judgment for the amount in question would inevitably ensue.

I accepted the evidence of the plaintiff as to the circumstances in which this note was executed and I disbelieved the defendant's version of the facts on all the matters in issue. The arrival at the figure of $4,800 therefore, became a mere matter of arithmetic.

The substantial point for the defence, however, was a technical one, namely, that the promissory note was not in compliance with section 5(1) of the Moneylenders Ordinance (Cap. 193) which was the relevant Ordinance as far as the present matter is concerned.

Section 5(1) of that Ordinance reads as follows:—

"No contract for the repayment by a borrower or his agent of money lent to him or to any agent on his behalf by a moneylender or his agent on or after the first day of January, 1936, or for the payment by him of interest on money so lent, and no security given by the borrower or by any such agent as aforesaid in respect of any such contract, shall be enforceable, unless a note or memorandum in writing of the contract in the English language be signed by the parties to the contract.....before the money is lent; and no such contract or security shall be enforceable, if it is proved that the note or memorandum aforesaid was not so signed before the money was lent or before the security was given, as the case may be:"

The note in question is in the standard printed form and is duly signed by the parties in Gurmukhi script. Learned counsel for the defendant does not contend that the fact that the signatures of the parties below the words "VALUE RECEIVED" were in that script offends against the section; but he takes the point that in the main body of the note the sub-section is offended in that its relevant part reads:

"Principal $3,500/-
Interest $140/-
One Month after date I (Signature of Defendant in Gurmukhi script) JOINTLY AND SEVERALLY PROMISE TO PAY TO....."

The contention is that the purpose of the section is to ensure that the contents of the note can be read and understood by a person familiar only with the English language and that if the name of the borrower is written in a language other than English then the intention of the sub-section is defeated.

No authority was cited to me in support of this submission which, as learned counsel himself concedes, is purely technical. To put it another way, it is a point of naked principle unadorned by merit.

In the absence of authority, I am most reluctant to arrive at what seems to me to be a highly artificial interpretation of the sub-section. On the note in question, which as I have said is in the normal printed form, all the relevant details of the transaction have been written in. The fact that the borrower sets out his own name in Gurmukhi script — and there is no dispute that the name is accurately recorded in the Punjabi language — does not, in my opinion, offend the sub-section.

It was for these reasons that I entered judgment for the plaintiff for $4,800 and costs.

Judgment for the plaintiff.

Solicitors: *K. K. Bezboruah; Braddell Bros.*

CHUA WAH KEOW v. NG HO HUAT & ANOR.

[C.A. (Tan Ah Tah, Chua and Wee Chong Jin JJ.) August 31, 1961]

[Singapore — Civil Appeal No. 14 of 1960]

Practice and Procedure — Judgment — Final order not drawn up — Recall and withdrawal of order — Principle to be applied.

An order which has not yet been perfected can be withdrawn, or altered, or modified only if to perfect it as orally pronounced would result in an erroneous order.

The plaintiff, alleging that he was the owner of a taxi, claimed damages against the two defendants for damage caused to the taxi in a collision between the vehicles of the two defendants. The plaintiff, in fact, was not the owner of the taxi but only the hirer under a hire-purchase agreement. His claim was thereupon dismissed. Subsequently, the learned trial Judge, on ascertaining that the order had not been drawn up and perfected, recalled and reheard the matter. On the suggestion of the learned trial Judge, counsel for the plaintiff applied for leave to amend his statement of claim so that it could be pleaded that the plaintiff was the bailee of the taxi. Leave was given, and after hearing argument, the learned trial Judge found the 1st defendant solely to blame and awarded damages against him. The 1st defendant appealed:—

Held: there was no doubt as to the correctness of the order of the learned trial Judge whereby the action was dismissed. That being so the learned trial Judge had not exercised his discretion properly in recalling and withdrawing the order and allowing the plaintiff to amend the statement of claim.